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May 17, 2002

The Honorable Robert C. Bonner
Commissioner
U.S. Customs Service
1300 Pennsylvania Ave., N.W.
Washington, D.C. 20229

Dear Mr. Commissioner:

I am writing to request additional information regarding the regulations and requirements used by the U.S. Customs Service to ensure that radioactive materials are not improperly or illegally shipped to the U.S. from abroad. As you know, a recent Fedex shipment from Europe that was emitting high levels of radiation was not detected until after it was delivered to Louisiana, and I am concerned that controls adequate to prevent the improper or illegal importation of dangerous radioactive materials either do not exist, do not work, or are not being enforced.

A January 10, 2002 article in the New York Times reported that FedEx shipped a 300 pound package containing 9400 curies of radioactive iridium-192 from Paris to the Source Production and Equipment Company in St. Rose, Louisiana. The package was reportedly emitting so much radiation by the time it was delivered that an individual exposed to it could have developed symptoms of radiation poisoning within several hours. For some reason, the radiation leak went undetected by officials at both U.S. Customs and FedEx.

On January 16, 2002, I wrote you and asked for some information regarding this incident. On April 29, 2002, you responded to my letter, stating that: 1) U.S. Customs had determined that an additional 4,300 Personal Radiation Detectors (PRDs) are needed for inspectors and other Customs officials, 2) that Customs inspectors with these "highly sensitive" PRDs who were located in the vicinity of the leaking Fedex package were not alerted by the PRDs to the presence of any radiation and therefore 3) "this suggests that damage to the packaging occurred during the transport to New Orleans [i.e. after it had already passed through U.S. Customs], and that this damage caused radiation leakage."

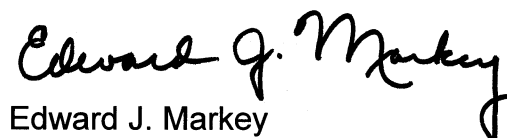
However, a May 2, 2002 press release issued by the French Nuclear Safety Agency (see http://www.asn.gouv.fr/data/information/17_2002_cdp.asp) indicates that medical examinations of FedEx agents in France showed that the package was already leaking when it was sent to Roissy airport, and that these individuals had been exposed to about 15 millisieverts of radiation. According to the release, the maximum allowable dose for a member of the public is 1 millisievert per year, and the maximum allowable dose for a nuclear industry worker is 20 millisieverts per year. The release went on to say that some of the stoppers of the tubes containing the radioactive sources had been unscrewed, and the sources fell out of the tubes, which was why the package was leaking.

The finding that the package was leaking before it left France appears to be in direct conflict with your April 29, 2002 response to my January 16, 2002 letter. Consequently, I ask that you provide me with prompt responses to the following questions:

- 1) When did you become aware of the French report that concluded the package was leaking prior to its departure from France? Do you have any reason to doubt the accuracy of that report? Please provide copies of all correspondence related to the French investigation of this incident.
- 2) Do you believe that it is possible that the PRDs used by the Customs inspectors who were in the vicinity of the leaking package malfunctioned? If so, what are you doing to ensure that the PRDs used by these and other Customs officials are working? If not, why didn't the PRDs alert the inspectors to the high levels of radiation being emitted from the package?
- 3) Have you performed medical examinations of the Customs inspectors who were in the vicinity of the leaking package? If so, what were the results? If not, why not?
- 4) Are you certain that the PRDs Customs is currently using (as well as those it intends to purchase in the future) can adequately perform the function for which they are intended?
- 5) The French report stated that when the package was opened in the presence of American officials in Louisiana, it was found that the tops of some of the tubes containing the radioactive sources were unscrewed. Is that true? If so, when did you find out that this was the case? Was a U.S. Customs official onsite when the package was opened? Please provide all documentation.
- 6) If U.S. Customs observed the package being opened, or was informed before April 29, 2002, that the tops of the tubes inside the package were unscrewed, why did you inform me that the evidence suggested that the damage occurred after the package arrived in the U.S.? Wouldn't this conclusion have meant that someone would have had to open the package, unscrew the tops of the tubes, and then reseal the package?
- 7) My understanding is that your decision to purchase 4,300 additional PRDs means that every Customs inspector should (if the PRDs work properly) be alerted if they are in the vicinity of radiation. However, this does not necessarily ensure that every package entering the U.S. will be screened for radiation. Is it your policy to take steps to ensure that all packages entering the U.S., whether they are labeled radioactive or not, will be screened for radiation? If so, please describe how and when this will be accomplished. If not, why not?

Thank you for your attention to this important matter. Please provide your response no later than May 31, 2002. If you have any questions or concerns, please have your staff contact Dr. Michal Freedhoff of my staff at 202-225-2836.

Sincerely,


Edward J. Markey